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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/610,768	07/06/2000	William P. Alberth JR.	CS10557	5526

7590 04/23/2003
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EXAMINER

TRAN, TUAN A

ART UNIT PAPER NUMBER

2682

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

21

Office Action Summary

Application No.

09/610,768

Applicant(s)

ALBERTH ET AL.

Examiner

Tuan A Tran

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/06/2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-24 and 26-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,8-10,14-22,27 and 30 is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6,7,11-13,23,24,26,28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 4 and 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Alpert (5,742,666).

Regarding claims 4 and 12, Alpert discloses a method of sending a message stored in memory associated with a wireless device 54 (See fig. 3A), the wireless device 54 including a microphone 60, the method comprising the steps of: initiating a call from the wireless device (See fig. 3A and col. 3 lines 36-41, col. 5 lines 12-15); sending the stored message from the wireless device after a call is established (See col. 5 lines 15-20); monitoring the microphone for audio signals and terminating sending the stored message when an audio signal is picked –up by the microphone of the wireless device (See col. 5 lines 20-23, col. 10 lines 43-46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2684

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-2, 13, 26 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alpert (5,742,666) in view of Shirk et al. (6,539,301).

Regarding claims 1-2, Alpert discloses a method of sending a message stored in memory associated with a wireless device 54 (See fig. 3A), the wireless device 54 including a microphone 60, the method comprising the steps of: initiating a call from the wireless device (See fig. 3A and col. 3 lines 36-41, col. 5 lines 12-15); sending the stored message from the wireless device and sending position data from the wireless device after a call is established (See col. 5 lines 15-20, col. 5 line 55 to col. 6 line 5); and monitoring the microphone for audio signals and terminating sending the stored message when an audio signal is picked up by the microphone of the wireless device (See col. 5 lines 20-23, col. 10 lines 43-46).. However, Alpert does not mention the step of sending the stored message when a predetermined time has elapsed on a timer wherein the timer is initiated when the call is established. Shirk teaches about an assistance request system (See figs. 3A and 4) including a timer function that required a user press a request button for a minimum time period before a request is initiated (See fig. 4 and col. 2 lines 23-30). Since both Alpert and Shirk suggest systems capable of sending assistance request to a receiving party automatically, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of timer function of Shirk in delaying to send the stored message to

Art Unit: 2684

the receiving party from the wireless device as disclosed by Alpert for the advantage of minimizing inadvertent or mistaken service request.

Claims 26 and 28 are rejected for the same reasons as set forth in claim 1, as apparatus.

Regarding claim 13, Alpert & Shirk disclose as cited in claim 1. Alpert further discloses the step of terminating sending the stored message when a key of the wireless device is activated (See col. 10 lines 47-49).

Claim 29 is rejected for the same reasons as set forth in claim 13, as apparatus.

3. Claims 6-7 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alpert in view of Newman et al. (4,860,292).

Regarding claim 6-7, Alpert discloses a method of sending a message stored in memory associated with a wireless device 54 (See fig. 3A), the wireless device 54 including a microphone 60, the method comprising the steps of: initiating a call from the wireless device in response to detecting actuation of a speed-dial key (See fig. 3A and col. 3 lines 36-41, col. 5 lines 12-15, col. 10 lines 35-46); sending the stored message from the wireless device after a call is established (See col. 5 lines 15-20). However, Alpert does not mention the step of resending the stored message from the wireless device responsive to detecting a command from a base. Newman teaches a method of communicating between two control units includes transmitting a message from one control unit to the other comprising a step of resending a message upon receiving an NAK (Negative Acknowledgement) (See Abstract). Therefore, it would have been

Art Unit: 2684

obvious to one of ordinary skill in the art at the time the invention was made to apply the Newman's teaching into the wireless device as disclosed by Alpert by having included the step of resending the stored message upon receiving the command from the base for the advantage of providing trouble-free and efficient communication.

Claim 23 is rejected for the same reasons as set forth in claim 6-7, as apparatus.

Regarding claim 24, Alpert & Newman disclose as cited in claim 23. Alpert further discloses the wireless device further comprising a geolocation receiver for determining position data for the device and the controller further programmed to transmit the position data through the transceiver when the call is established (See col. 5 line 55 to col. 6 line 5).

4. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Alpert (5,742,666).

Regarding claim 11, Alpert discloses a method of sending a message stored in memory associated with a wireless device 54 (See fig. 3A), the wireless device 54 including a microphone 60, the method comprising the steps of: initiating a call from the wireless device (See fig. 3A and col. 3 lines 36-41, col. 5 lines 12-15); sending the stored message from the wireless device after a call is established (See col. 5 lines 15-20); monitoring the microphone for audio signals and terminating sending the stored message when an audio signal is picked up by the microphone of the wireless device (See col. 5 lines 20-23, col. 10 lines 43-46). However, Alpert does not mention that the data message including a digital signature. Data message having digital signature is

Art Unit: 2684

well known in the art, therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included digital signature into the transmitted data message as disclosed by Alpert in order to enhance the validity of the message.

Allowable Subject Matter

5. Claims 5, 8-10, 14-22, 27 and 30 are allowed.

The following is an examiner's statement of reasons for allowance:

Alpert discloses a method of sending a message stored in memory associated with a wireless device, the wireless device including a microphone, the method comprising the steps of: initiating a call from the wireless device; sending the stored message from the wireless device after a call is established; monitoring the microphone for audio signals and terminating sending the stored message when an audio signal is picked-up by the microphone of the wireless device. However, Alpert fails to teach the step of adding audio signals picked-up by the microphone of the wireless device into the stored message and sending the resultant signal as specified in claims 5, 14, 27 and 30.

Claims 8-10 and 15-22 are allowed as being dependent upon independent claims 5 and 14 respectively, which have been allowed.

Response to Arguments

Art Unit: 2684

Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan Tran** whose telephone number is **(703) 605-4255**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Vivian Chin**, can be reached at **(703) 308-6739**.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

Art Unit: 2684

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

WAW

Tuan Tran

AU 2682


VIVIAN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
4/18/03